

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

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TAKEDA GMBH, ASTRAZENECA  
PHARMACEUTICALS LP, AND  
ASTRAZENECA UK LIMITED,

*Plaintiffs,*

v.

MYLAN PHARMACEUTICALS INC.,

*Defendant.*

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Civil Action No. 1:15-cv-00093-IMK

**REPORT ON DISCOVERY ISSUES**

Pursuant to the Scheduling Order entered by the Court (Dkt. No. 37), Plaintiffs Takeda GmbH (“Takeda”), AstraZeneca Pharmaceuticals LP, and AstraZeneca UK Limited (collectively, “AZ,” and together with Takeda, “Plaintiffs”) and Defendant Mylan Pharmaceuticals, Inc. (“Mylan” or “Defendant”) met and conferred on November 16, 2015 regarding (1) Plaintiffs access to documents from the original NDA holder; and (2) for each living inventor, whether Plaintiffs can provide the inventor for deposition or Defendant will need to proceed under the Hague Convention.

During the meet and confer session on November 16, 2015, Plaintiffs made the following representations:

- (1) Plaintiff AZ is in possession of certain documents concerning the development and commercialization of the Daliresp® product that were received from the original third party NDA holder in connection with the transfer of the Daliresp® product to AZ. Plaintiffs, however, do not have control over documents that remain in the

possession of the original NDA holder. Thus, any such documents must be sought directly from the original NDA holder.

(2) The availability of the inventors of the patents-in-suit for deposition is as follows:

- **U.S. Patent No. 5,712,298:** The sole named inventor on this patent, Dr. Hermann Amschler, is deceased.
- **U.S. Patent Nos. 8,604,064; 8,618,142; and 8,536,206:** There are three named inventors on these patents, all of whom reside in Germany: Mr. Walter Palosch, Dr. Bernd Mueller, and Dr. Bernard Kohl. Plaintiffs will make current Takeda employees Dr. Bernd Mueller and Mr. Walter Palosch available for depositions, without the need for Hague Convention procedures, subject to the disputes before the Court concerning the length of inventor and foreign language depositions set forth in the parties' Rule 26(f) Report and Proposed Discovery Plan. (Dkt. No. 24.) Plaintiffs have not yet reached former Takeda employee Dr. Bernard Kohl regarding his availability for deposition, but will continue their efforts to reach him.
- **U.S. Patent No. 8,431,154:** There are three named inventors on this patent, all of whom are former Takeda employees and who reside in Germany: Dr. Rango Dietrich, Mr. Harmut Ney, and Dr. Klaus Eistetter. Plaintiffs contacted Dr. Dietrich to request his availability for a deposition, and he communicated that he is amenable to a deposition without the need for Hague Convention procedures, provided that he may be reimbursed for his expenses and time associated with the deposition. The parties will continue to meet and confer and seek the Court's guidance as appropriate regarding

Dr. Dietrich's request for reimbursement. Plaintiffs have not yet reached Mr. Harmut Ney regarding his availability for deposition, but will continue their efforts to reach him. Defendant must proceed under the Hague Convention should they wish to depose former Takeda employee Dr. Klaus Eistetter, as he has communicated to Plaintiffs that he is unwilling to voluntarily appear for deposition without the need for Hague Convention procedures.

Respectfully submitted,

November 23, 2015

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